

G. A listing of nursing facility debt outstanding during the reporting year, and the name of the lender, the term of debt, interest rate of debt, interest and principal payments for the current year and all remaining years, and the original amount of debt.

H. An explanation of all adjustments to the historical costs.

I. The nursing home's statement of property tax.

SECTION 2.030 Additional information which may be required. Additional information that may be required are access to accountant's workpapers; other audited financial statements for any other Minnesota nursing facility owned by the same owners or for any related organization doing business with the nursing facility; copies of leases, purchase agreements, or other documents related to the purchase of equipment, goods, or services; and access to federal and state income tax returns; and other relevant information necessary to support a payment request.

SECTION 2.040 Information required from hospital attached nursing facilities. In addition to the above required reports, hospital-attached nursing facilities shall provide a copy of the most recent Medicare cost report filed with the Medicare intermediary for the reporting year.

SECTION 2.050 Reporting real estate taxes and special assessments. The nursing facility shall submit a copy of its statement of property tax payable for the calendar year in which the rate year begins by April 5 of that calendar year. Upon receipt of the statement of property tax payable, the Department shall adjust the payment rate accordingly. Special assessments and related interest paid during the reporting year must be shown on the cost report.

SECTION 2.060 Method of accounting. The accrual method of accounting in accordance with generally accepted accounting principles is the only method acceptable for purposes of satisfying reporting requirements. An exception is made for governmental owned nursing facilities.

SECTION 2.070 Records. The nursing facility shall maintain statistical and accounting records in sufficient detail to support information contained in the cost report for at least five years, including the year following submission of the cost report. For computerized accounting systems, the records must include copies of electronically generated media such as magnetic discs and tapes.

SECTION 2.090 Certification of reports. All reports as to the costs of operations or of medical care provided which are submitted by vendors of medical care for use in determining their rates or reimbursement shall be submitted under oath as to the truthfulness of their contents by the vendor or an officer or authorized representative.

STATE: MINNESOTA

Effective: July 1, 1999

TN: 99-10

Approved: Dec. 15, 1999

Supersedes: 99-04 (98-22/97-20/97-11)

ATTACHMENT 4.19-D (NF)

Page 22

SECTION 2.100 Deadlines and extensions. The deadline for submission of the annual cost report to the Department is December 31. The report must cover the reporting year ending on September 30 of that year. The Department may reject any annual cost report filed by a nursing facility that is incomplete or inaccurate or may require additional information necessary to support the payment rate request. The Department may grant one 15-day extension of the reporting deadline.

SECTION 2.110 Effective date of total payment rate. The Department shall provide to all nursing facilities notice of the total payment rate by May 1 of each year. The total payment rate is then effective from July 1 of that year to June 30 of the following year.

SECTION 2.112 Extensions. The Commissioner may grant up to a 15 day extension of the reporting deadline to a nursing facility for good cause. To receive such an extension, a nursing facility shall submit a written request by December 1. The Commissioner will notify the nursing facility of the decision by December 15. Between December 1 and December 31, the nursing facility may request a reporting extension for good cause by telephone and followed by a written request.

SECTION 2.120 Noncompliance. If a nursing facility fails to comply with the reporting requirements the Department shall reduce the nursing home's total payment rate to 80 percent of the total payment rate. Reinstatement of the total payment rate is retroactive.

SECTION 2.130 Audits. Nursing facility audits are subject to the following:

A. The Department shall subject all reports and supporting documentation to desk and field audits. Each year the Department shall provide for the on-site audit of the nursing facility cost reports. At least 15 percent of the nursing facilities shall be selected using factors including but not limited to: change in ownership, frequent changes in administration in excess of normal turnover rates; complaints to the Commissioner of Health about care, safety, or rights; where previous inspections by the Department of Health have resulted in correction orders related to care, safety, or rights; or where persons involved in ownership or administration of the facility have been indicted for alleged criminal activity. Retroactive adjustments may be made as a result of desk or field audit findings. If a field audit reveals inadequacies in a nursing home's record keeping or accounting practices, the Department may require the nursing facility to engage competent professional assistance to correct those inadequacies within 90 days so that the field audit may proceed.

B. Field audits may cover the four most recent annual cost reports for which desk audits have been completed and payment rates have been established. The field audit will be an on-site review of the nursing facility's costs and statistical information.

C. Changes in the total payment rate which result from desk or field audit adjustments to cost reports for reporting years beyond the four most recent annual cost reports must be made to the four most recent annual cost reports to the extent that those adjustments affect the total payment rate established by those reporting years.

SECTION 2.140 Amended reports. Amendments to previously filed annual cost reports are governed by items A and B.

A. Nursing facilities may file amendments to previously filed annual cost reports when:

(1) Errors or omissions in the annual cost report are discovered and an amendment would result in at least a five-cent per resident day or \$2,000 adjustment, whichever is less for each reporting year. The Department shall make retroactive adjustments to the total payment rate of an individual nursing facility if the amendment is filed within 14 months of the original cost report to be amended. Errors or omissions that do not meet the threshold amount required for amended cost reports, or errors or omissions discovered after the 14-month time limitation specified in this item, may be claimed at the time of the field audit.

B. Nursing facilities must not amend a previously filed cost report for the purpose of removing costs of services for which the nursing facility seeks separate billing.

SECTION 2.150 False reports. If a nursing facility knowingly supplies inaccurate or false information in a required report that results in an overpayment, the Department shall:

A. Immediately adjust the nursing home's payment rate to recover the entire overpayment within the rate year;

B. Terminate the Department's provider agreement with the nursing facility;

C. Prosecute under applicable state or federal law; or

D. Use any combination of items A, B, and C.

SECTION 2.155 Treble Damages. Any vendor of medical care who willfully submits a cost report, rate application or claim for reimbursement for medical care which the vendor knows is false representation and which results in the payment of public funds for which the vendor is ineligible shall, in addition to other provisions of Minnesota law, be subject to an action by the State of Minnesota for civil damages. The damages awarded shall include three times the payments which result from the false representation, together with costs and disbursements, including reasonable attorneys' fees or their equivalent.

SECTION 3.000 COST ALLOCATION PROCEDURES

SECTION 3.010 Classification. Classification of costs is the process of charging costs to the appropriate cost categories and compiling a total for each cost category to be recorded on the cost report. Nursing facilities shall classify their costs in accordance with established cost categories. Costs that cannot be specifically classified in a cost category, such as the cost of generic supplies, must be classified in the general and administrative cost category.

SECTION 3.020 Identification. Except for the salary costs of individuals with multiple duties, costs must be directly identified, without allocation, by routine classification of transactions when costs are recorded in the books and records of the nursing facility.

SECTION 3.030 Personnel with multiple duties. When a person other than top management personnel has multiple duties, the person's salary cost must be allocated to the cost categories on the basis of time distribution records that show actual time spent, or an accurate estimate of time spent on various activities. In a nursing facility of 60 or fewer beds, part of the ~~salary or~~ salaries of top management personnel may be allocated to other cost categories to the extent justified in time distribution records which show the actual time spent, or an accurate estimate of time spent on various activities. A nursing facility that chooses to estimate time spent must use a statistically valid method. Persons who serve in a dual capacity, including those who have only nominal top management responsibilities, shall directly identify their salaries to the appropriate cost categories. The salary of any person having more than nominal top management responsibilities must not be allocated.

SECTION 3.040 Central, affiliated, or corporate office costs. Cost allocation for central, affiliated, or corporate offices shall be governed by items A to F.

A. Central, affiliated, or corporate office costs representing services of consultants required by law or rule in areas including dietary, pharmacy, social services, or other resident care related activities may be allocated to the appropriate cost category, but only to the extent that those costs are directly identified by the nursing facility.

B. For rate years beginning on or after July 1, 1990, the central, affiliated or corporate office cost allocation in subitems (1) to (6) must be used when determining rates.

(1) All costs that can be directly identified with a specific nursing facility that is a related organization to the central, affiliated, or corporate office, or that is controlled by the central, affiliated, or corporate office under a management agreement, must be allocated to that nursing facility.

(2) All costs that can be directly identified with any other activity or function not described in subitem (1) must be allocated to that activity or function.

STATE: MINNESOTA

Effective: July 1, 1999

TN: 99-10

Approved: Dec. 15, 1999

Supersedes: 99-04 (98-22/97-20/97-11)

ATTACHMENT 4.19-D (NF)

Page 25

(3) After the costs that can be directly identified according to subitems (1) and (2) have been allocated, the remaining central affiliated, or corporate office costs must be allocated between the nursing facility operations and other activities or facilities unrelated to the nursing facility operations based on the ratio of total operating costs determined as follows:

a. The numerator for the allocation ratio shall be determined as follows:

i. For nursing facilities that are related organizations or are controlled by a central, affiliated, or corporate office under a management agreement, the numerator of the allocation ratio shall be equal to the sum of the total costs incurred by each related organization or controlled nursing facility.

ii. For a central, affiliated, or corporate office providing goods or services to related organizations that are not nursing facilities, the numerator of the allocation ratio shall be equal to the sum of the total costs incurred by the non-nursing facility related organizations.

iii. For a central, affiliated, or corporate office providing goods or services to unrelated nursing facilities under a consulting agreement, the numerator of the allocation ratio shall be equal to the greater of directly identified central affiliated or corporate costs or the contracted amount.

iv. For business activities that involve the providing of goods or services to unrelated parties which are not nursing facilities, the numerator of the allocation ratio shall be equal to the greater of directly identified costs or revenues generated by the facility or function.

b. The denominator for the allocation ratio is the sum of the numerators in clauses i to iv of a.

(4) Those long term care operations that have nursing facilities both in Minnesota and outside of Minnesota must:

a. Allocate the nursing facility operation's central, affiliated or corporate office costs identified in item C to Minnesota based on the ratio of total resident days in Minnesota nursing facilities to the total resident days in all facilities.

b. Allocate the Minnesota nursing facility operation's central, affiliated or corporate office costs identified in a to each Minnesota nursing facility on the basis of resident days.

STATE: MINNESOTA

Effective: July 1, 1999

TN: 99-10

Approved: Dec. 15, 1999

Supersedes: 99-04 (98-22/97-20/97-11)

ATTACHMENT 4.19-D (NF)

Page 26

(5) Definitions. For purposes of item B, the following have the meaning given them.

a. "Management agreement" means an agreement in which one or more of the following criteria exist:

i. The central, affiliated, or corporate office has or is authorized to assume day-to-day operation control of the long-term care facility for any six-month period within a 24-month period. "Day-to-day operation control" means that the central, affiliated, or corporate office has the authority to require, mandate, direct, or compel the employees of the long-term care facility to perform or refrain from performing certain acts, or to supplant or take the place of the top management of the long-term care facility. Day-to-day operational control includes the authority to hire or terminate employees or to provide an employee of the central, affiliated, or corporate office to serve as administrator of the long-term care facility.

ii. The central, affiliated, or corporate office performs or is authorized to perform two or more of the following: the execution of contracts; authorization of purchase orders; signature authority for checks, notes, or other financial instruments; requiring the long-term care facility to use the group or volume purchasing services of the central, affiliated, or corporate office; or the authority to make annual capital expenditures for the long-term care facility exceeding \$50,000 or \$500 per licensed bed, whichever is less, without first securing the approval of the long-term care facility board of directors.

iii. The central, affiliated, or corporate office becomes or is required to become the licensee under applicable state law.

iv. The agreement provides that the compensation for services provided under the agreement is directly related to any profits made by the long-term care facility. or

v. The long-term care facility entering into the agreement is governed by a governing body that meets fewer than four times a year, that does not publish notice of its meetings, or that does not keep formal records of its proceedings.

b. "Consulting" agreement means any agreement the purpose of which is for a central, affiliated, or corporate office to advise, counsel, recommend, or suggest to the owner or operator of the nonrelated long-term care facility measures and methods for improving the operations of the long-term care facility.

(6) This section does not apply to payment rates determined under Section 19.040, except that any additional directly identified costs associated with the Department of Human Services' or the Department of Health's managing agent under a receivership agreement must

be allocated to the facility under receivership, and are nonallowable costs to the managing agent on the facility's cost report.

C. Central, affiliated, or corporate office property-related costs of capital assets used directly by the nursing facility in the provision of nursing facility services must be allocated to the nursing facilities which use the capital asset. Central, affiliated, or corporate office property-related costs of capital assets which are not used directly by the nursing facility in the provision of nursing facility services must be allocated to the general and administrative cost category of each nursing facility using the methods described in item B.

D. The useful life of a new capital asset maintained by a central, affiliated, or corporate office must be determined by applying one of the following schedules in subitem (1) or (2):

(1) the useful life of a building is 35 years; of land improvement is 20 years; of a major building improvement is the greater of 15 years or the remaining life of the principal capital asset; of depreciable equipment except vehicles is ten years; and of a vehicle is four years; or

(2) the depreciation guidelines.

E. The useful life of used capital assets maintained by a central, affiliated, or corporate office must be determined based on the physical condition of the used capital asset but the useful life of the used capital asset must not be less than one-half the useful life determined under item D.

F. The useful life of leasehold improvements maintained by a central, affiliated, or corporate office must be either the useful life of the improvement determined under item D or the remaining term of the lease, including renewal periods, whichever is shorter.

SECTION 3.050 General and administrative costs. Except as provided above, general and administrative costs must not be allocated as direct or indirect costs to other cost categories.

SECTION 4.000 DETERMINATION OF ALLOWABLE COSTS

SECTION 4.010 Allowable costs. Only costs determined to be allowable under the methods used to determine payment shall be used to compute the total payment rate for nursing facilities participating in the medical assistance program.

SECTION 4.020 Applicable credits. Applicable credits must be used to offset or reduce the expenses of the nursing facility to the extent that the cost to which the credits apply was

claimed as a nursing facility cost. Interest income, dividend income, and other investment income of the nursing facility or related organization are not applicable credits except to the extent that the interest expense on working capital debt is incurred and claimed as a reimbursable expense by the nursing facility or related organization. Interest income must not be offset against working capital interest expense if it relates to a bond sinking fund or a restricted fund if the income is not available to the nursing facility or related organization. Gains or losses on the sales of capital assets used by the nursing facility must not be applicable credits.

SECTION 4.030 Adequate documentation. A nursing facility shall keep adequate documentation.

A. In order to be adequate, documentation must:

- (1) Be maintained in orderly, well-organized files.
- (2) Not include documentation of more than one nursing facility in one set of files unless transactions may be traced by the Department to the nursing facility's annual cost report.
- (3) Include a paid invoice or copy of a paid invoice with date of purchase, vendor name and address, purchaser name and delivery destination address, listing of items or services purchased, cost of items purchased, account number to which the cost is posted, and a breakdown of any allocation of costs between accounts or nursing facilities. If any of the information is not available, the nursing facility shall document its good faith attempt to obtain the information.
- (4) Include contracts, agreements, amortization schedules, mortgages, other debt instruments, and all other documents necessary to explain the nursing facility's costs or revenues.
- (5) Be retained by the nursing facility to support the five most recent annual cost reports. The Department may extend the period of retention if the field audit was postponed because of inadequate record keeping or accounting practices, the records are necessary to resolve a pending appeal, or are required for the enforcement of Minnesota's conditions for participation.
- (6) Beginning July 1, 1998, payroll records supporting compensation costs claimed by long-term care facilities must be supported by affirmative time and attendance records prepared by each individual at intervals of not more than one month. The requirements of this subitem are met when documentation is provided under either clause a or b as follows:

STATE: MINNESOTA

Effective: July 1, 1999

TN: 99-10

Approved: Dec. 15, 1999

Supersedes: 99-04 (98-22/97-20/97-11)

ATTACHMENT 4.19-D (NF)

Page 29

a. the affirmative time and attendance record must identify the individual's name; the days worked during each pay period; the number of hours worked each day; and the number of hours taken each day by the individual for vacation, sick, and other leave. The affirmative time and attendance record must include a signed verification by the individual and the individual's supervisor, if any, that the entries reported on the record are correct; or

b. if the affirmative time and attendance records identifying the individual's name, the days worked each pay period, the number of hours worked each day, and the number of hours taken each day by the individual for vacation, sick, and other leave are placed on microfilm, equipment must be made available for viewing and printing them, or if the records are stored as automated data, summary data must be available for viewing and printing.

B. Compensation for personal services, regardless of whether treated as direct or indirect costs, must be documented on payroll records. Payrolls must be supported by time and attendance or equivalent records for individual employees. Salaries and wages of employees which are allocated to more than one cost category must be supported by time distribution records. The method used must produce a proportional distribution of actual time spent, or an accurate estimate of time spent performing assigned duties. The nursing facility that chooses to estimate time spent must use a statistically valid method. The compensation must reflect an amount proportionate to a full-time basis if the services are rendered on less than a full-time basis.

C. Except for vehicles used exclusively for nursing facility business, the nursing facility or related organization must maintain a motor vehicle log that shows nursing facility mileage for the reporting year. Mileage paid for the use of a personal vehicle must be documented.

D. Complete and orderly records must be maintained for cost allocations made to cost categories.

E. If the Commissioner requests supporting documentation during an audit for an item of cost reported by a long-term care facility, and the long-term care facility's response does not adequately document the item of cost, the Commissioner may make reasoned assumptions considered appropriate in the absence of the requested documentation to reasonably establish a payment rate rather than disallow the entire item of cost. This provision shall not diminish the long-term care facility's appeal rights.

SECTION 4.040 Compensation for personal services. Compensation for personal services includes all the remuneration paid currently, accrued or deferred, for services rendered by the nursing facility's owners or employees. Only valid compensation costs for the current reporting period are allowable.

STATE: MINNESOTA

Effective: July 1, 1999

TN: 99-10

Approved: Dec 15, 1999

Supersedes: 99-04 (98-22/97-20/97-11)

ATTACHMENT 4.19-D (NF)

Page 30

A. Compensation includes:

(1) salaries, wages, bonuses, vested vacations, vested sick leave, and fringe benefits paid for managerial, administrative, professional, and other services;

(2) amounts paid by the nursing facility for the personal benefit of the owners or employees;

(3) the costs of assets and services which the owner or employee receives from the nursing facility;

(4) deferred compensation, individual retirement plans such as individual retirement accounts, pension plans, and profit-sharing plans;

(5) the annual cost of supplies, use of capital assets, services for personal use, or any other in-kind benefits received by the owners or employees; and

(6) payment to organizations of unpaid workers, that have arrangements with the nursing facility for the performance of services by the unpaid workers.

B. The nursing facility must have a written policy for payment of compensation for personal services. The policy must relate the individual's compensation to the performance of specified duties and to the number of hours worked. Compensation payable under the plan must be consistent with the compensation paid to persons performing similar duties in the nursing facility industry. Employees covered by collective bargaining agreements are not required to be covered by the policy if the collective bargaining agreement otherwise meets the essentials of the policy required by this item.

C. Only necessary services shall be compensated.

D. Except for accrued vested vacation, accrued vested sick leave, or compensation claims subject to litigation or employer-employee dispute resolution, compensation must be actually paid, whether by cash or negotiable instrument, within 107 days after the close of the reporting period. If payment is not made within 107 days, the unpaid compensation shall be disallowed in that reporting year.

SECTION 4.050 Licensure and certification costs. Operating costs of meeting the licensure and certification standards in items A to C are allowable operating costs for the purpose of setting nursing facility payment rates. The standards are:

A. standards set by federal regulations for skilled nursing facilities and intermediate care facilities;